Programs Branch

User Report

REVIEWS OF THE YOUNG OFFENDERS ACT: A BIBLIOGRAPHY

NO. 1987-17

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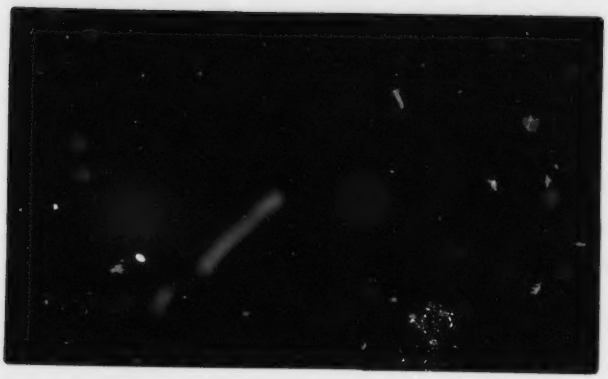

JOHN G. WATTERS

REVIEWS OF THE YOUNG OFFENDERS ACT: A BIBLIOGRAPHY

NO. 1987-17

This working paper, prepared under contract in 1987, is made available as submitted to the Ministry.

This working paper is available in French. Ce document de travail est disponible en français.

Introduction

This document is an annotated bibliography of reports, reviews and critiques concerning the Young Offenders Act. Only those documents are included that appeared after the Act came into effect and that provide evidence regarding its effects. Also provided is a keyword index, entitled "Issues", for reference purposes. Articles are typed into three categories: Research, Legal Studies and Commentary

Works reviewed are those written up to and before April 30th, 1987. This bibliography examines only English literature on the Young Offenders Act.

Archambault, Omer, J.R. Notes for Presentation to Young Offenders Act National Education Seminar. Conference Centre - Ottawa, Canada. Ministry of the Solicitor General, January 1983.

Article Type: Commentary

Issues: Young Offenders Act -
YOA/JDA
Commentary
Juvenile Codes
Issues
Policy
Youth

Call Number: KE
9445
A83
1983

Summary:

Notes from a speech presented by Judge Omar Archambault providing background on the evolution of juvenile justice in Canada to the present direction outlined in the Young Offenders Act. This article serves as a guide for comparing the essential differences between the JDA and the YOA and the impact of this change on juvenile justice.

AvRuskin, Stanley. "Child's Play" The Criminal Lawyer's Association Newsletter.

Type: Commentary

Issues: Young Offenders Act
- Critiques
- Commentary
- Offenders Rights
- Statements
- Dispositions
- Policy Changes
- Records
- Jury Trial
- Legal Representation
- Charter of Rights
- Constitutional Rights
- Education Act
- Criminal Code
- Truancy
- S. 13
- Notice
- Custody
- Open Custody
- Secure Custody

Call Number: Periodical

Summary:

A series of articles pertaining to youth justice issues involving the Young Offenders Act.

December, 1983, Volume 5, Number 8.

Children are people too - The issue raised in this article is when does a child have a right to a jury trial.

March, 1984, Volume 5, Number 9.

Truancy - Is it worth the Court's Time? - At issue is should truancy be criminally sanctioned under the Criminal Code? Should truancy be an offence?

May, 1984, Volume 5, Number 10.

Truancy - Is it worth the Court's Time? Part II - At issue is the right to a fair trial ensured under the Charter in the case of truancy? Comment is also provided on S. 13 of the Criminal Code which was revoked under the YOA. Under the YOA the issue is raised that revoking this defence actually raised the age limit and assists the prosecution by lowering the age of

criminal responsibility from 14 - 12 years because few youths were charged under 14 years.

October, 1984, Volume 6, Number 2.

In Defence of Young Offenders - S. 9 of the YOA requires that the police provide oral or written notice to parents as soon as possible, stating place of detention, the reasons for the arrest, plus other mandatory conditions set out in S. 9(6) of the Act. With written notice an issue is raised: is the date notice given, the date issued or the date received by the recipient?

Another issue raised in this article is what is adequate assistance provided by the adult?

March, 1985, Volume 6, Number 5.

Outline of R. v. Wallace Thomson L., Provincial Court, Family Division.

Issues raised are:

(1) When must the Crown establish to the Court's satisfaction that notice had been given pursuant to the YOA under S. 9?

(2) When does age of the young person be proved, if at all?

(3) Is it proper for the judge to draw premature attention to the failure to prove one or other point to deprive one or other litigant of some tactical advantage in the proceedings?

The author argued that the Crown must establish age of person at start of proceedings to determine jurisdiction.

May 1985, Volume 6, Number 6

Open and secure custody - A case presented before the Manitoba Court of Queen's Bench examined several key issues concerning custody. The case C.F. and Her Majesty the Queen et. al., July, 1984 examined the following:

(1) Does a Youth Court Judge have the authority to designate a place or facility of "open custody" as defined by S. 24 of the Young Offenders Act? The parties to the application agreed that the Youth Court Judge does not have the power to so designate.

(2) Does a Youth Court Judge have the authority to order that a term of "open custody" be served at a place or facility specified by the Youth Court Judge? Both sides acknowledge that a Judge does not have the authority to order that a term of "open custody" be served at a place or facility

specified by the judge.

(3) Is the designation of one cottage at the Manitoba Youth Centre as a place or facility of "open custody" contemplated by the Young Offenders Act?

(4) Does a Wilderness Camp become a place of "open custody" only after its designation as such by the Lieutenant-Governor in Council? Both parties acknowledge that this question should be answered in the affirmative.

July, 1985, Volume 7, Number 1

Records under the Young Offenders Act - Examined is SS. 40-46, YOA. In R. v. M.L. it was concluded that while the philosophy of open court applied to the actual hearing, Parliament had directed that the record of the Court was to be dealt with entirley differently, that is to say non-disclosed, subject to certain exceptions of named agencies. The helping agencies and those with valid interests were included. Newspapers are no more privileged than a private person.

September, 1985, Volume 7, Number 2

Records under the Young Offenders Act, Part II - Examined the use of transcripts of a Youth Court decision in an adult court trial. No reference provided as to the presence of the young person at trial. K. H. v. R. W.C.B., 1985. Three issues were raised.

November, 1985, Volume 7, Number 3

Jury Trials - The case cited, Robbie L. v. The Queen File No. 188.181, the trial judge examined the issue concerning the young offender charged with a serious offence having a right to trial by jury. Defence argued that S. 52, of the YOA is unconstitutional for it deprives a young person of a right to a jury trial. Judge ruled that a young person has a right to a jury trial and that S. 52 is unconstitutional.

January, 1986, Volume 7, Number 4

The Use of the Criminal Defence Lawyer in Young Offenders Court - Article endorses the YOA provisions of right to counsel as part of fundamental justice.

March, 1986, Volume 7, Number 5

In Statement Cases, Do Not Waiver - Examines S. 56 of the YOA concerning voluntary statement criteria. Discussed case Brian A. v. R. No Y2138/84, which examined five principles in acquiring a voluntary statement from a young person.

May, 1986, Volume 7, Number 6

Are sentences too short or too long? - Argues that a three year sentence without parole is quite severe in a young person's life. Also examined media criticism that this maximum is not harsh enough for a young person.

July, 1986 Volume 8, Number 1

Comments on the April 1986 Amendments: For Whose Benefit? - Discussed are the proposed amendments concerning commital, P.D.R.'s, consecutive sentencing and the right to publish names of young persons under the argument of proper administration of justice. Argues that a young person's rights are being eroded by these amendments.

Bala, Nicholas; Lilles, Heino. The Young Offenders Act Annotated. Don Mills: Richard De Boo Publishers with the cooperation of the Solicitor General of Canada. 1984.

Article Type: Legal Studies

Issues: Young Offenders Act - Juvenile codes
Interpretation
Evaluation
Document analysis
Commentary
Case law
Jurisprudence
Judicial decisions

Call Number: KE
9445
.A31
B3
1984

Summary:

This book provides a section by section review of the Young Offenders Act. Also provided is a list of forms used under the new legislation and a table of cases pertaining to the Act. No statistical analysis is provided.

Bala, Nicholas; Lilles, Heino. Young Offenders Service. Volumes 1 & 2. Scarborough: Butterworths. 1984-to date.

Article Type: Legal Studies

Issues: Young Offenders Act - Provincial statutes
Charter of Rights
Constitutional rights
Child welfare
Child protection laws

Call Number: KE
9445
.A6
Y6
1984-
Vol I & II

Summary:

A two volume compendium of information on the Young Offenders Act. Volume One consists of the legislation proper; Bill C-106, Amendments to the YOA, first reading; YOA forms; the JDA and provincial youth legislation. Volume Two provides a table of cases, an annotated Young Offenders Act, a listing of truancy and related provincial offences, the Charter of Rights and various articles outlined separately throughout this report. No statistical analysis is provided.

Bennett, John F. "Concerns About the Young Offenders Act". Provincial Judges Journal. Vol. 8, No. 4, pp. 17-18, January, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Ontario
Accountability
Alternatives
Just Deserts Theory
Diversion

Call Number: Periodical

Summary:

The author is critical of the YOA for limiting judicial discretion that was available during the implementation of the JDA. He sees two conflicting spheres of influence: the public, who want a tougher juvenile justice system, and the legal purists, who want a more treatment oriented system for youths.

Also discussed is the court process in Ontario since the implementation of the YOA. Noted is the absence of diversion programs in Ontario. He also argues that the YOA is not diverting young people, just making the process more difficult.

Berlin, Mark L; Allard, Herbert A. "Diversion of Children from the Juvenile Courts". Canadian Journal of Family Law. Vol. 3, Number 4, pp. 439-460, 1980.

Article Type: Research

Issues: Young Offenders Act - Diversion
Critiques
Alternatives
Sentencing
Juvenile Court
Pre-delinquent diversion
Diversion
criteria

Call Number: Periodical

Summary:

This paper evaluates the strengths and weaknesses of diversion in the Canadian Juvenile Justice System. Generally, the authors find diversion incompatible with the juvenile justice system and contrary to the rule and due process of law. Their paper's major thrust is to exercise caution with diversion programs.

The diversion program outlined and evaluated is the Windsor Essex County Pilot Diversion Project.

They outlined the following merits of diversion:

Community involvement;
avoidance of labelling;
overburdened and unresponsive courts; and
voluntariness of diversion

Their major criticisms of diversion are:

Labelling;
lack of empirical evidence;
absence of rational uniform policy;
adding another level to the system;
who speaks for the community;
is the court an appropriate community response; and
abuse of due process.

In conclusion the authors recommend that diversion in its specific context is inappropriate; what must be decided is a coherent criminal justice philosophy for the entire country. They further argue that to see diversion as a "catch all" solution for recidivism is folly, since the causes of criminal activity is more complex.

British Columbia. Manual of Operations - Youth Programs. Ministry of the Attorney General - Corrections Branch., 1987

Article Type: Legal Studies

Issues: Young Offenders Act - British Columbia
Juvenile Codes
Provincial Statutes
Youth Court
Juvenile Court
Family Court
Pretrial Assessment
Professional Evaluation
Assessment
Court Facilities
Needs Assessment
Alternatives
Custody

Call Number: HV
9109
.B7
C6
1987-

Summary:

This manual is designed as a reference source of policies and procedures for personnel of the Corrections Branch (B.C.) who have responsibilities in the youth corrections programs in whatever capacity. The manual is designed to allow it to be revised should changes occur in the YOA or in practices. The data is presented in the order which young persons would flow thorugh the justice system in B.C.

Burgess, Robin. "Juvenile Corrections in Ontario". Corrections Today. Volume 44, Number 3, pp. 40,42-43, 1982.

Article Type: Commentary

Issues: Young Offenders Act - Juvenile Code
YOA/JDA
Ontario
Policy Changes
Policy
Policy Analysis

Call Number: Pericdical

Summary:

This article provides background information on youth justice in Ontario up to the implementation of the YOA. Outlined is Ontario's policy in reference to juvenile justice under the YOA, specifically to the application of the YOA to Ontario.

Canadian Council on Social Development, Canadian Council on Children and Youth. Young Offenders Act: Survey of Programming in the Voluntary Sector. March 1986.

Article Type: Research

Issues: Young Offenders Act - Social Service
Agencies
Alternatives
Issues
Diversion
Program
Direction
Program
Delivery
Program
Implementation

Call Number: HV
9108
C36
1986

Summary:

A national survey was conducted in 1984 by the CCSD to:

1. Identify relevant YOA programs in the voluntary sector;

2. encourage effective information and networking among those in the voluntary sector concerned with the development of effective YOA programming; and

3. assist in pursuing program development and evaluation strategies.

The mailing list provided the name, address and telephone number of 602 organizations, the names of executive directors; status; focus of programs -- ie. alternatives, education, Institution; client characteristics and public education. Finally, each respondent was asked for names of other voluntary groups which are involved in the youth justice system so they may be contacted by CCSD.

The distribution of YOA programs shows Ontario with the majority of the 130 identified programs (64). The fewest were in the Yukon Territory, which had none. Statistics were provided concerning the status of service delivery programs, scope of service delivery programs, scope of public education programs, funding sources for programs and cost of programs.

Also provided is a listing of resource persons from the federal and provincial governments, and from National Religious and Cultural agencies.

Central Toronto Youth Services. Youth Opportunity Action: Toward Ontario's New System for Young Offenders. Toronto: Central Toronto Youth Services Foundation. 1982

Article Type: Commentary

Issues: Young Offenders Act - YOA/JDA
Critiques
Juvenile Court Diversion
Alternative Sentencing
Alternative Measures
Alternatives
Policy
Philosophy
Principles
Sentencing

Call Number: HV
9109
.05
Y6

1982

Summary:

Discusses the turn of the century and the JDA - description of pre - 1908 criminal justice for young persons.

The YOA is seen as treatment oriented. Described are the key features of the YOA, its philosophy, age, specific offences, diversion provisions and new rights.

Police criticism of the YOA are provided.

Cohen, Lori. "Johnny wants a lawyer" Alberta Report. Volume 12, Number 47. p. 27, November 1985.

Article Type: Commentary

Issues: Young Offenders Act - Constitutional
Rights
Charter of Rights
Education
Legal Representation
Offender Rights
School
Defence Counsel

Call Number: Periodical

Summary:

An Alberta Provincial Court Judge ruled that incidents, even though occuring on school property that would constitute a police investigation such as theft; the principal must inform the young offender that they are entitled to have counsel present for questioning.

Cohen, Lori. "Youthful terror in Blood Ally" Alberta Report. Volume 12, Number 52 pp. 32-33 December 16, 1985.

Article Type: Commentary

Issues: Young Offenders Act - Case law
Jurisprudence
Judicial Decisions
Expert Witnesses
Transfer

Call Number: Periodical

Summary:

Discussed is the Kain's killing in Vancouver where a drunk was brutally murdered. The youth who committed the murder was sentenced to three years in jail with eligibility for parole in six months.

At issue is the use of character witnesses in murders.

The Crown failed to have the case tried in adult court owing to lack of criminal past.

Community Legal Education Ontario. Youth Report. Toronto: 62 Noble Street, Toronto, M6K 2C9. N.D.

Article Type: Legal Studies

Issues: Young Offenders Act - Education Act
Ontario
Education
Judicial decisions
Jurisprudence
Social service agencies

Call Number: N/A

Summary:

The Youth Report highlights important cases from a range of legislation. Areas of focus include the Young Offenders Act and the Education Act (Ontario). The report examines current issues through in-depth analysis of precedent setting decisions drawn from lower courts to the Supreme Court of Canada.

Cunningham, Rowena. "The Young Offenders Act: Walking the Tightrope Between Public Protection and Due Process." Rights and Freedoms. Coyright, Canadian Rights and Liberties Federation, Issue 57, pp. 1-4. March, 1986.

Article Type: Commentary

Issues: Young Offenders Act - YOA/JDA
Commentary
Ontario

Call Number: Periodical

Summary:

The YOA is seen as providing a uniform juvenile justice system accross the country. An historical description of the JDA and its initial impact on the juvenile justice system is provided. Delay in changing the JDA to the YOA is attributed to jurisdictional quarrels and changes in federal/provincial government. A brief comparison of the JDA to the YOA is made by the author. One major difference in the YOA is the absence of the crime of delinquency, diminished responsibility, whereas the JDA has the parens patrie doctrine, the notion of a kindly but stern parent. Frank Bowes of the Ottawa police youth squad was cited as favoring the YOA, as was Peter Wright, Ottawa family lawyer. The author's final note is that the YOA is still maturing and experiencing growing pains.

Dalby, J. Thomas. "Criminal Liability in Children". Canadian Journal of Criminology. Volume 27, Number 2, pp. 137-145. April, 1985.

Article Type: Legal Studies

Issues: Young Offenders Act - Age limitation
Criminal Code
S. 13
Criminal liability
Minimum age
Criminal responsibility
Accountability
Age discrimination

Call Number: Periodical

Summary:

The Young Offenders Act's major impact on juvenile justice is the raising of the age of criminal responsibility from seven to twelve years. The author noted that there is no established reasoning behind the age limit decision since the age of criminal responsibility in Western countries differs from ten years in the United Kingdom to various ages in different states in the United States.

The YOA repeals Section 13 of the Criminal Code eliminating the issue of moral development, a feature of Section 13 on the issue of criminal responsibility of children or adults.

Section 13 of the Code had allowed for competency in criminal matters to be examined on an individual basis between the ages of seven to thirteen years inclusive. According to the author by fourteen years, the majority of these children would clearly have the requisites for liability.

The YOA by setting the age of responsibility at twelve has in the author's opinion lowered the unquestioned age limit. It has marked a clear dividing line of criminal and non-criminal responsibility rather than supporting an age-graded approach.

Daley, Timothy T. "Release from Custody and the Judiciary under the Young Offenders Act or A Sign of Things to Come?" Provincial Judges Journal. Volume 10, Number 2, pp. 21-24, July 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
YOA/JDA
Issues

Call Number: Periodical

Summary:

Comparison of the YOA and the JDA orientation. The JDA is seen as treatment oriented while the YOA is seen as "law and order" oriented. Also examined is detention options under the JDA versuses the YOA.

Elson, Steve. Experiences and Issues with the YOA. Thorold Ontario: Niagara Children's Services Committee, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Issues
Evaluation
Child
welfare
Age limitation
Age discrimination
Policy

Call Number: HV
9110
.N56
E4
1986

Summary:

This book notes the impact of the YOA on the juvenile justice system, particularily children under 12, uniform age requirements, limits of judicial discretion etc. The remainder of the article is devoted to examining eleven recommendations outlined by the Niagara Children's Services Committee. The proposals are: one uniform youth court in Ontario; that COMSOC be responsible for youth justice; alternatives be implementated in Ontario; under certain circumstances youths under 12 be brought to court with appropriate safeguards; identifying dangerous young offenders if public safety is at stake; support and endorse the availability of treatment facilities for young persons; review of the treatment disposition in a criminal justice legislation; more consideration for young persons living away from home; endorse ammendments to the YOA allowing dispositions longer than the limits currently in place and a review of the YOA and related legislation (provincial and federal) to remove any discrimating practices.

Elton, Tanner; Whelan, Peter. Working Paper for Federal-Provincial Officials on the Financial Implications of the Young Offenders Act. 1983.

Article Type: Research

Issues: Young Offenders Act - Long Range Planning
Cost Analysis

Call Number: KE
9445
.A72
W6
1983

Summary:

This federal/provincial working paper documents the current costs of the juvenile justice system in nine provinces and two territories and the cost projections of implementation of the YOA in British Columbia, Alberta, Ontario and Nova Scotia.

Elton, Tanner; Whelan, Peter. Working Paper for Federal-Provincial Officials on the Financial Implications of the Young Offenders Act: Supplementary Documents. 1983.

Article Type: Research

Issues: Young Offenders Act - Long Range Planning
Cost Analysis

Call Number: KE
9445
.A72
W6
1983s

Summary:

Listing of documents concerning the financial implications of the YOA in reference to the first part of the report.

Elton, T. D. "The Young Offenders Act: Philosophy and Principles". Crown Counsel's Review. Volume 4, Number 4, pp. 3-6. October, 1984.

Article Type: Legal Studies

Issues: Young Offenders Act - Criminal responsibility
YOA/JDA
Criminal liability
Mitigated responsibility

Call Number: Periodical

Summary:

The main issue covered in this article is age and criminal responsibility criteria.

The criteria established in the Juvenile Delinquents Act (JDA) is, in the author's opinion, no longer adequate in today's society. The adolescent is considered to be in a state of transition, fully independent and responsible for his/her actions, capable of independent thought, although lacking the same degree of maturity as adults.

Young offenders are deemed responsible for their behaviour by three methods of reform:

1. exercise responsibility towards society;

2. exercise responsibility towards the victim; and

3. actively participating in their own reformation and self improvement.

The principle of "mitigated responsibility" is developed by having less stringent dispositions for young offenders than an adult offender would receive; plus the requirement that records be destroyed following completion of the disposition and a qualifying period of crime free behaviour. (p. 4)

Ferns, Barboura A.; Pearson, John C. Discussion Paper on the Young Offenders Act. Toronto: Law Society of Upper Canada, The Canadian Bar Association - Ontario. 1984.

Article Type: Legal Studies

Issues: Young Offenders Act - Interpretation
Case law
Jurisprudence
Judicial decisions
YOA/JDA
Code of Ethics

Call Number: KEB
592
F4
1984

Summary:

This book provides a step-by-step analysis of the YOA. Outlined is an historical overview of the juvenile justice system in Canada to date. Provides case law for all issues raised by each section, previous and present YOA, and other relevant Canadian, British and American jurisprudence. Final section (2 pages) a brief overview of ethical issues concerning counsel-client-parent/guardian relationship.

Gaber, Peter, Greene, Ian; McCormick, Peter. The Young Offenders Act: The Alberta Youth Court Experience in the first Year. 1986 (To be published in the Canadian Journal of Family Law)

Article Type: Research

Issues: Young Offenders Act - Evaluation
YOA/JDA
Custody
Disposition
Assessment
Treatment
Constitutional Rights

Call Number: N/A

Summary:

Article provides an overview of the YOA in comparison with the JDA. Examines change in philosophy of new legislation focussing on issues such as dispositions, custody, assessment and treatment of the young person and their constitutional rights.

Study

Telephone interview were conducted with 13 of the 15 full time Family and Youth Division Court Judges in Alberta.

Four issues were examined concerning the YOA.

1. Sentencing Strategy

Judges surveyed regarding change in attitudes to the YOA. Over half indicated no change in their attitudes. Most of those surveyed believed in accountability and treatment principles of the Act.

The majority said older young offenders should not be treated in the same way as adult offenders. They agreed that they are part of the same juvenile justice system as 12-year-olds.

The judges questioned practicability of treating all young offenders as adults. Survey found that judges who treated young offenders' differently from adults tended to treat 16-17-year-olds as adults.

2. Custodial Disposition

Judges were asked how they equated committed to child welfare under the old system to custody under the YOA. The judges were asked their opinion on services for young persons. In their opinion services needed improving, ie. available bed space.

Emphasis on treatment is lacking in the system to date.

The study also found that the judges admitted to treating homeless young offenders differently from those with homes to return to.

3. Non-Custodial Disposition

The judges surveyed were asked if they use CSO's as part of dispisitons and what their thoughts are of alternative measures. One half were cited as having increased their use of CSO's citing the YOA as a factor in contemplating their use. The other half either used them before the implementation of the

YOA or did not believe in their use as an alternative measure.

4. Other

Caseload changes were not thought to be significant, no uniformity of conclusion as to a reason for the change. They believed that the police laid fewer charges since April 1984.

No concern was expressed by the judges as to the change in the minimum age.

The judges expressed the view that with the emphasis on rights, guidance and assistance may be neglected.

Gaudet, M. A. "The Young Offenders Act: Concerns of the Legal Community.:" Liaison. Volume 10, Number 7, pp. 28-34, 1984.

Article Type: Legal Studies

Issues: Young Offenders Act - Analysis
Policy analysis
Charter of Rights
Critiques
Evaluation
CJS analysis
Workshops & seminars

Call Number: Periodical

Summary:

A conference was held in the spring of 1984 to review and analyze the YOA. This article provides highlights of the panel topics discussed.

Chief Judge H.T. Andrews, Provincial Court, Family Division, described the YOA as "a lawyer's dream - there are so many technicalities."

Professor H. Lilles, Faculty of Law, Queen's University noted that the major change is the clear acceptance that the YOA is criminal law, yet still recognizing that young persons still need special treatment.

Sergeant Robert Meek, Ottawa Police Department pointed out that although the police officer must advise the young offender of his rights to counsel, there is no specific wording given.

Further comments were provided.

Harris, Peter J. Young Offenders Act Manual. Aurora: Canadian Law Book Inc. 1984-

Article Type: Legal Studies

Issues: Young Offenders Act - Juvenile Codes
YOA/JDA
Policy

Call Number: Periodical
Law, Statutes & Regulations

Summary:

This one volume annotated text is intended to provide information for judges, counsel and youth workers on the YOA. This manual is maintained quraterly with supplemental releases. Included are past and recent cases concerning youth justice under the YOA and the JDA. Also, an annotated YOA, appendices which include forms under the new legislation and Index to the YOA annotated. Author raised the issue that could the YOA be a carbon copy of the adult system and if so what is the value of having two systems?

Jaffe, P. G.; Leschied, A. W. "Preparation and execution of reports and their recommendations in a format suitable to the needs of the Youth Court". In Richard Freeman (ed) Psychological services for the Young Offenders Act: a training manual. In preparation.

Article Type: Commentary

Issues: Young Offenders Act - Reports
Pretrial assessment
Professional evaluation
Assessment
Juvenile Courts
Youth Courts
Family Courts
Court clinics
Court facilities

Call Number: N/A

Summary:

This report examines how to properly assess a person in order to prepare a final report for the court. Also outlined are five assumptions concerning the nature of assessments and young offenders:

1. The youth's behaviour can be understood in the context of their communities, family history, and their development.

2. Assessment is limited by available resources to the court and the clinical setting that is mandated to provide this service. A possibility occurs that assessment programs hampered by shortage of funds may not be providing adequate services.

3. Assessments must be complemented by practical suggestions for the Court to consider in its disposition.

4. The judges final decision to accept the profes.ional's recommendation should be proportional to the potential impact of the court decision on a young person's life.

5. The professionals who will be providing the assessment should carefully assess their own qualifications to provide assessment information to the Youth Court.

Also examined is the issue of when should a young offender be assessed.

John Howard Society of Ontario. "Reform and Juvenile Justice in Ontario". Newsletter. Winter, 1982.

Article Type: Commentary

Issues: Young Offenders Act - Policy changes
Alternative sentencing
Parental responsibility
Maximum age
Due process
Due care
Legal representation
Juvenile Court diversion

Call Number: Periodical

Summary:

The Young Offenders Act applies to Criminal Code and specific federal legislation. No "catch all" phrases such as "contributing to delinquency" are included. Young people are now responsible for their own actions. The YOA recognizes that young offenders have special needs in addition to supervision, discipline, and control. They may require guidance and assistance, emphasizing that whenever possible, alternative measures to the formal court process should be considered.

Alternatives should be considered and endorsed, although it is emphasized that diversion still stresses parental responsibility for a child's care and supervision.

The YOA applies only to Criminal Code and related federal statutes. Less serious conduct will be left for child welfare and youth protection laws under provincial control.

According to Judge Beaulieu, Senior Judge, Provincial Court Family Division, the YOA distinguishes between crime, child welfare, and child protection, emphasizing the criminal act.

Parents should accept responsibility for their children's actions.

The John Howard Society's response to the YOA is positive. The Society is pleased that the YOA recognizes and legitimizes the need for legal representation of young offenders. However, they caution against having due process a substitute for due care.

The Society believes that the juvenile court must continue to reflect concerns for both offender and offence committed, balancing emotional, social and legal issues.

The Society contends that it is advantageous to slow down the juvenile's penetration into the justice system as recidivism increases if the child becomes more involved. The Society endorses the uniform maximum age limit of eighteen years.

John Howard Society of Ontario. "Young Offenders Act Examined". Newsletter. Spring, 1982.

Article Type: Commentary

Issues: Young Offenders Act - Alternatives
Issues
Young Person Bill of Rights
Due process
Due care
Provincial Responsibilities
Pre-delinquent diversion
Charter of Rights
Constitutional rights

Call Number: Periodical

Summary:

Jeffery Wilson, Family Lawyer and Author of Up Against It: Children and the Law in Canada states the following:

The problem with the new legislation is typical with respect to statutes affecting children. There is no accountability - in the sense of due process - for the spending of dollars for children's resources. Without a fair review of what we are doing with our dollars for a particular child's treatment, the new legislation is more rhetoric than remedy.

A major concern of the Society is a concession in the alternatives section of the YOA which states that alternative measures "should be considered...where it is not inconsistent with the protection of society", this leaves considerable discretion with those responsible for the YOA and at the same time allows for a broad excuse for the denial of these measures. The Society endorses a clearer mandate for alternative measures.

Also recommended is the inclusion of a young persons' Bill of Rights in the YOA as a benefit to those individuals advising young persons.

Another issue with the YOA is that since it is a "legalistic" document emphasizing "the law", it may overlook equally important issues of child welfare and juvenile development. The danger exists that the YOA will serve as a "Criminal Code" for children serving as a means of dealing with the problem child instead of creating ways to relate to and understand the child.

It is feared that leaving the responsibility for alternative measures with provincial officials runs a risk that these programs will become exceptional measures.

On the issue of age limits, the Society recommends that 7-12 year-olds may be amenable to some form of pre-charge diversion; with regard to 16-18 year-olds the present system forces the child into training school if funding for services to this group is to be available because of the death of residential after-care facilities.

Under S. 4(2), the youth's eligibility for diversion does not address the problem if the youth stands mute in court.

Regarding bail application under S. 9(2) the youth may sign for bail application without his parents being present. At issue: when can it be determined that the young offender knows or understands what he/she is signing?

Justice Institute of British Columbia et. al. A Guide to the Young Offenders Act in B.C. April, 1984.

Article Type: Commentary

Issues: Young Offenders Act - British Columbia
Evaluation
Commentary
Policy
Policy changes
Due process
Legal representation
Needs Assessment
Custody
Disposition
Age limitation

Call Number: KEB
592
G8
1984

Summary:

This report provides a step by step procedure outline of the youth justice process in British Columbia since the implementation of the YOA. Specifically, the role of the police, legal counsel, court proceedings, dispositions, probation, custody, assessments and appeals.

Landau, Barbara. "The Young Offenders Act: Important Features for Psychologists". Ontario Psychologist. Volume 15, Number 4, pp. 6-8, November, 1983.

Article Type: Commentary

Issues: Young Offenders Act - Issues
Client/psychiatrist relationship
Mental Health
Confidential records
Learning disabilities
Assessment
Needs

Call Number: Periodical

Summary:

Article examines the positive features of the YOA and negative features which are of concern to psychologists. This listing of features are not exhaustive. One major focus is the impact psychologists may have on the YOA in areas such as definition of mental disorder, learning disability and emotional disturbance. Also, to make the court aware of possible infringements on the privacy of the young person when a report is brought before the court.

Lefebvre, John R. Report On Under Twelve Year Olds In Conflict With The Law: A Perspective On The Issues. Windsor: Essex County Diversion Program Inc. October, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Child Welfare
Provincial Statutes
Ontario
Criminal liability
Accountability
Age limitation

Call Number: HV
9109
.05
L4
1986

Summary:

This report, commissioned by the Board of Directors, Essex County Diversion Program Inc., concerns the management of youths under-12 who come into conflict with the law since the implementation of the YOA. One area examined is the lack of provincial legislation since the implementation of the YOA, particularily in Ontario. Raised issue of police demands for an option to send certain youths under 12 for exceptional cases. Also provided are a copy of the Child and Family Services Act, Ontario, a listing of possible counselling services for under 12's, and a report on the Earslcourt Child & Family Centre's outreach Pilot Project.

Leguire, Stephen; Philip, Tom. "Armed fingers for a lethal driver." Alberta Report. Vol. 13, N. 40. p. 17, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Judicial Decisions
Criminal liability
Accountability
Critique
Issues
Just Deserts Theory
Disposition

Call Number: Periodical

Summary:

A Calgary youth was charged with dangerous driving after killing three youths. The youth was sentenced to two years licence suspension, two years, probation, and 240 hours CSO work with the disabled. The Crown wanted three to six months in jail. Parents of the victims wanted a more severe sentence since with adult privileges come adult responsibilities.

Leschied, Alan W.; Hyatt, C. "Perspective: Section 22(1), Consent to treatment under the Young Offenders Act". Canadian Journal of Criminology, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Consent to treatment
S. 22
Disposition options
Voluntary treatment
Involuntary treatment
Right to refuse treatment
Right to treatment

Call Number: Periodical

Summary:

Under S. 21 of the YOA young persons must provide consent in order for the court to make a treatment disposition. Four arguments are raised that this section is inappropriate because:

(1) it disregards the developmental factors that preclude a young person from meaningfully responding to the consent section;

(2) it does not consider the young person's psychopathology as a mediating factor in a young person's ability to consent to treatment;

(3) it is inconsistent with precedent and other forms of legislation pertaining to a young person's participation in court process which requires a "test" of capability; and

(4) it ignores the evidence of potential benefits from treatment which young offenders can receive.

Leschied, A. W.; Jaffe, P. G. "Implications of the consent to treatment section of the Young Offenders Act: A case study. Canadian Psychology, 1986.

Article Type: Commentary

Issues: Young Offenders Act - S. 22
Consent to treatment
Voluntary treatment
Involuntary treatment
Right to refuse treatment

Call Number: Periodical

Summary:

This paper outlines the controversy surrounding the "consent to treatment" section of the Young Offenders Act. The impact of this section is discussed in the context of a case study involving a fourteen year old depressed girl before a youth court judge on a property offence. Outlined are the consequences of the girl's refusal to consent to treatment.

Leschied, A. W.; Gendreau, P. "The declining role of rehabilitation in Canadian Juvenile Justice: Implications of underlying theory in the Young Offenders Act". Canadian Journal of Criminology, 1986.

Article Type: Commentary

Issues: Young Offenders Act - YOA/JDA
Rehabilitation

Call Number: Periodical

Summary:

This article argues that the main philosophy underlying the YOA is the punishment, not rehabilitation model. What the YOA has done, in the authors' opinion, is to legitimize the neglect of young persons who were previously cared for under the Juvenile Delinquents Act (JDA). The author alleges that the YOA accepts the Martinson argument that "nothing works" and that the YOA is a duplicate of the adult criminal court model.

The juvenile justice situation in the United States and Canada is described.

Studies providing empirical data are used to argue that the use of detention has significantly increased since the implementation of the YOA.

The argument is also presented that the YOA will abuse basic human rights with its emphasis on individual rights.

Leschied, A. W.; Jaffe, P.G. "Implications of the Young Offenders Act in modifying the juvenile justice system: Some early trends. In N. Bala and H. Lilles (ed) Young Offenders Service. Vol. 2. Scarborough: Butterworths, pp. 7525-7532, 1985.

Article Type: Research

Issues: Young Offenders Act - Detention facilities
Court disposition
Trends
Population forecasting
Needs assessment
Open custody
Secure custody
Predisposition reports
Prediction
Detention
Juvenile detention
Long range planning
Empirical study

Call Number: KE
9445
.A6
Y6
1984-
Vol II.

Summary:

At issue in this article is the need to provide detention and custody facilities for young offenders.

This study summarizes the first eight months experience of a nine county area in Southern Ontario. Data focussing on the use of different kinds of dispositions is used to provide a comparison of orders for clinical assessments and social histories.

A table summarizes the frequencies and percentages of charges, dispositions and orders for Section 13 (medical/psychological reports) and Section 14 (pre-dispositional reports).

According to the author what appears to occur is that the number of charges has remained constant despite the fact that under the YOA, 7-11-year-olds are no longer charged.

Custody

Committals to custody show a significant increase since the implementation of the YOA. Under the JDA, committals to training school were five per cent of dispositions, while under the YOA, open and secure custody are eleven per cent.

Orders for open and secure custody were closely even. Requests by the court for a predisposition reports were made in one of five cases and clinical assessments were requested in one of twenty cases. These data reflect a thirty per cent increase in the demand for social histories and a fifty per cent decrease in requests for assessments.

Also shown was a decrease in the use of treatment services by the youth court.

Detention

The figures outlined in the article reflect only pre-disposition and pre-trial detention. Young offenders placed in the London O & D Home on secure custody dispositions (i.e. less than 30 days) are not included.

In the twenty bed secure detention centre serving part of the geographical area under investigation, the average length of stay has increased by approximately twenty-one percent, from 12.2 days to 14.8 days.

Leschied, A. W. "The use of Court for compulsory school attendance: The case for us and the case against us." Journal of the Ontario Association of Attendance Counsellors. In press.

Article Type: Commentary

Issues: Young Offenders Act -
Truancy
Child welfare
Education Act
Ontario
Schools
Education

Call Number: N/A

Summary:

This article provides an historical outline of truancy as an offence up to the Juvenile Delinquents Act (JDA). The use of the courts for truancy is dependent upon:

1. Acknowledgement by the community that school attendance is of critical importance.

2. Ability the court has to use some community service for young people and their families such as family court clinics and probation (which are only accessible through the courts).

3. Court's role in coordinating community agencies to meet the young persons needs.

Arguments against the use of the court system for truancy are:

1. Abuse of court powers which may violate the young persons' civil rights.

2. Dispositions such as training school are seen as overly punitive and destructive.

3. The court system effectiveness is questioned in that it has not proven itself to be effective.

Leschied, A. W.; Coolman, M. and Williams, S. "Addressing the needs of school failures in a delinquent population". Behavioural Disorders, Volume 10, Number 1. pp. 40-46, 1984.

Article Type: Research

Issues: Young Offenders Act - School failures
Child welfare
Education Act
Ontario
Education
Empirical study

Call Number: Periodical

Summary:

The educational needs of 41 adolescents who appeared in Family Court and who were subsequently referred to the Family Court Clinic for assessment were examined. Characterisitcs of the students within group differences of the school population and impact of the school program were assessed. Findings indicated that the educational problems area was only one of many areas of difficulty for these adolescents. Other areas of the adolescents' life including both inter- and intrapersonal crises also contributed to undermining school achievement and attendance impact of the Clinic school placement, which emphasizes low student-teacher ratio, backup of social work and psychological personnel for counselling, and follow-up of students from the Clinic school back to regular school and specialized programs was reflected in improved school attendance. Issues were discussed regarding the relationship between school failure and juvenile delinquency. Programs which emphasized the need for a close working relationship between school boards and the juvenile justice and children's mental health systems was seen as meeting the needs of this disturbed group of young persons.

Leschied, A. W.; Jaffe, P.G. "Ethical considerations in the practice of psychology with young offenders." In Richard Freedman (ed.) Psychological services for the Young Offenders Act: A training manual. In preparation.

Article Type: Commentary

Issues: Young Offenders Act - Client/Psychiatrist relationship
Mental health
Forensic psychology
Code of Ethics
Confidential records
Expert witnesses

Call Number: N/A

Summary:

This article examines the limited impact of ethical considerations in forensic psychology. In Canada, no Canadian psychological association provides any clear guidelines with respect to the patient - doctor relationship. Also examined is the new procedures under the Act that psychologists may be subject to during their involvement with the Youth Court system. Psychologists' opinions are subject to cross-examination and conflicting opinion, including the questioning of their professional competency. They are also expected to have enough understanding of the law to be an active participant in the judicial process.

One major issue in confidentiality; when is the psychologist obliged to report what they hear when talking to a client. A possible guideline is a California Court case, Tarasoff rule: if a person informs a psychologist during their counselling sessions that they plan to commit an offence, the psychologist is obliged to inform the court.

Another issue raised is the disclosure of psychological reports to young persons and their families. A screening process is required to prevent the families and the young person from being overly traumatized

The final issue mentioned is the problem of records destruction. The Ontario Mental Health Act provides a seven year wait before the destruction of the records. As well, many mental health agencies require the maintenance of some form of records on their clients for seven years following discharge. The major issue is what if the client needs further treatment?

Leschied, A. W.; Wilson, S.K. Criminal liability of children under twelve: "A concern for child welfare, juvenile justice, or both?" American Journal of Orthopsychiatry, 1986 (submitted).

Article Type: Research

Issue: Young Offenders Act - Criminal liability
Age limitation
Child welfare
Pre-delinquent
Criminal responsibility
Criminal liability
Empirical study

Call Number: N/A

Summary:

According to the authors perceptions of raising the age of criminal liabilty are fraught with emotion and lack empirical support. Information was obtained by reviewing the characteristics of young persons under the age of twelve whom judges referred to the London Family Court Clinic for assessment following a finding of guilt. This study focusses on 7-11 year old youths seen by the clinic over a ten year period under the JDA (1974-1984), providing several perspectives on whether the problems of the offending age groups are better dealt with by child welfare than juvenile justice authorities.

Leschied, A. W.; Telford, A. "Recidivism among young adult offenders: implications for the Young Offenders Act". Canada's Mental Health. Volume 33, Number 1, pp. 7-10. March, 1985.

Article Type: Research

Issues: Young Offenders Act - Victim/offender reconciliation
Recidivism

Call Number: Periodical

Summary:

This study examines juveniles who, once adjudicated as delinquent in juvenile court under the JDA, become re-involved in the court system as young adults between the ages of 16 and 18.

The authors argue that changes in the YOA's philosophy from the JDA could significantly affect delinquency rates within the above mentioned age group.

The implementation of the YOA provides an opportunity to consider the efficiency of interventions used to date, to consolidate information, to identify the characteristics of the population that will be subject to the Act, to determine which forms of intervention are the most effective. (p. 7)

The YOA places additional responsibility on the young offender to account for his/her own behaviour. The recommendations for greater emphasis on victim-offender reconciliation suggests a move towards a more conservative, punitive response to juvenile justice.

Leschied, Alan W.; Coolman, Maureen; Jaffe, Peter G.; Sas, Louise. The Role of the Family Court Clinic in the Assessment of School-related Disorders with Young Offenders. London: London Family Court Clinic, 1986.

Article Type: Commentary

Issues: School failure - Education Act
Ontario
Child Welfare
Education
Learning disabilities
Pre-delinquent
Truancy
Court Clinics

Call Number: N/A

Summary:

This article examines previous literature on school failure and delinquency to date. Outlined is the model developed by the London Family Court Clinic which promotes a more positive school adjustment and liaison between the juvenile justice and educational systems.

Also examined is the problem of crime under sixteen and peer involvement in the development of youthful crime.

Also discussed is the frustration-agression model and the learning disability-juvenile delinquency link.

Also examined is the school liaison function between the family court clinic and the local school board.

Long, Mark; Mainville, France. Young Offenders Act: An inventory of Materials, Research and Programs. Prepared for the Canadian Law Information Council. Young Offenders Act Meeting: February 15, 16, 1984.

Article Type: Research

Issues: Young Offenders Act - Program Implementation
Program Initiatives
Policy

Call Number: N/A

Summary:

A three part inventory including:

Research proposed or in progress on the Implementation of the Young Offenders Act - Informational/Educational Aspects;

Current and anticipated materials and programmes in support of the Young Offenders Act; and

Abstracts of research of interest to those planning programmes for the Young Offenders Act.

This inventory represents an initial attempt to retrieve information on the YOA from a diversity of sources which, by the nature of the legislation, will be required to respond to the legal information needs of a variety of audiences.

MacDonald, John A. "Justice for Young Persons and the Young Offenders Act. Canadian Social Work Review. pp.64-82, 1985.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
YOA/JDA
Ontario
British Columbia
Child welfare
Provincial statutes
Legal representation
Policy
Legal Policy issues

Call Number: Periodical

Summary:

A commentary on the philosophy and declaration of principles (S.3) of the YOA. The author contrasts the least interference principle of the YOA to the parens patrie principle of the JDA. Reference is made to levels of responsibility in the YOA to the JDA. Also reference to the uniform age limit of the YOA to make it conform to the Charter. The author is critical of Ontario's two tiered approach as undermining the purpose of the YOA. He also examines the YOA (British Columbia) Act. The rest of the document walks through the YOA examining transfers to adult court; dispositions; dispositonal review; Child Welfare committals; counsel; appeals and fingerprinting under the YOA. Finally a brief examination of voluntariness of statements and the role of the police.

Manitoba Community Services. Young Offenders Act: The Second Year, April 1985-May 1986. Ministry of Commuity Services, 1985-86.

Article Type: Research

Issues: Young Offenders Act - Manitoba
Evaluation
Analysis

Call Number: KEM
592
Y6
1985-86

Summary:

This is a four section, 21 page report outlining the impact of the YOA from April, 1985 to May, 1986 in Manitoba.

Section one, outlines the impact of the YOA on programs, specifically, alternative measures, working together programs, volunteers, community committees, interdepartmental youth tracking systems and fine option programs. Statistics are provided for the number of youths completing Alternative Measures programs by region, 1983 to 1985 Calender Years. For 1984, 1 730 youths completed an alternative measure; for 1985 the number increased to 2 489. By fiscal year for April 84 to March 85 the total was 1 847, and for April 85 to March 86, 2 898.

Section two outlines the impact of the YOA on custody. Statistics are provided for pre-trial detention, open custody, secure custody and custody review. The number of transfers to adult court was highest at 10 for April 1 to June 30, 1984 and April 1 to June 30, 1985. Statistics are provided for judicial interim release, also including the average number of youth per day, and the number of youths detained in Secure and Open Custody under the YOA, JDA (84-85) and the Child Welfare Act (Manitoba). Average Days stay per discharge is categorized by year, sex and institution. No cumulative statistics are provided. For open custody, the average committal length by year is 9.6 months for 1985 and 8.9 months for 1986.

Section three outlines the impact of the YOA on support services, such as the Winnipeg Police Department First Offender program, etc. Statistics were provided.

Section four outlines the professionals' response to the YOA. Specifically, Probation Officers, Provincial Area Directors and the Young Offenders Implementation Review Committee. Statistics showed that the number of youths under supervision for probation increased from 1 230 in 1983 to 1 300 in 1985.

Marshall, J. "The CAS looks at the Young Offenders Act: It's a definite improvement". Liaison. Volume 10 (6), pp. 23-27, 1984.

Article Type: Commentary/Interview

Issues: Young Offenders Act - Childrens Aid Society
Child welfare

Call Number: Periodical

Summary:

Outlined is an interview with Fred Chafe, Director of the CAS's fourteen residential treatment homes in the Ottawa area and his personal comments on the Young Offenders Act.

Mr. Chafe sees the philosophy of the Act as an improvement to the JDA. Among the improvements are dispositions, which make young persons more responsible for their actions than under the JDA.

The children who are in the care of the CAS, yet continue to commit crimes will be more involved with the courts, so and if the child fails to comply with the law he will be held responsible for his actions.

Chafe argues that the law itself is fine, what is needed is to provide services to meet the special needs of the children.

Children should not be automatically excused for their actions because they experience problems in behaviour; with the exception of extreme cases, where they must be expected.

McConville, Brian; Bala, Nicholas, M. C. "Children's Rights: For or Against Treatment". Canada's Mental Health. Volume 33 Number 4. pp. 2-5, December, 1985.

Article Type: Legal Studies

Issues: Young Offenders Act- Children's rights
Consent to treatment
Parents
Charter of Rights
Human rights
Mental health services

Call Number: Periodical

Summary:

This paper discusses the legal concerns which may result in constraints being placed on the provision of mental health services. There is a fundamental problem in balancing needs for treatment with concerns about legal and human rights.

According to the authors what occurs in cases is that the lawyers argue for the patient's right to avoid treatment, the mental health professionals argue in favour of a patient's right to receive treatment. This argument intensifies when the issue surrounds admission of a child into a mental health facility.

Another issue is parental permission to admit a child to a mental health institution on the advice of a medical doctor. Is their consent without the child's consent valid, or should the child have some say in the matter?

American jurisprudence in this area is provided.

Also emphasized is the childs' right to counsel.

Moran, Sharon. "Young Offenders Act: Children Responsible for own actions." Rights and Freedoms. pp. 27-28. September-October, 1982.

Article Type: Legal Studies

Issues: Young Offenders Act - Criminal responsibility
Parental responsibility
Open Trials
Parental involvement
Just Deserts theory
Media Coverage
Neglectful parents

Call Number: Periodical

Summary:

Criminologists such as Dr. Maria Los of the University of Ottawa argue that young people now bear responsibility for their actions which is unrealistic to give these persons. The reasoning is that there are so many social and economic conditions that contribute to delinquency.

Another issue, according to Dr. Los, is the fact that older children may use younger children to commit offences.

Age for prison entry increased to a uniform 18 years except for transfer to adult court. A young offender may be transferred to adult court if the criteria for admission are met, that is: being the minimum age of 14 years, committing an indictable offence in the Criminal Code, and an accountable level of maturity and previous record of offences.

Parental responsibility is redefined in the YOA. The YOA acknowledges parental responsibility and encourages parents to take part in the proceedings. If the parents refuse, the court may order them to take part in the proceedings.

Trials are now open to the public. The problem is that the media may attend and report only the more celebrated cases.

Provision is made in the YOA for a mandatory review of case dispositions. The YOA also eliminates status offences from the criminal justice process.

Ministry of the Solicitor General. Proposals for Ammendments to the Young Offenders Act. February 11, 1986

Article Type: Legal Studies

Issues: Young Offenders Act - Ammendments

Call Number: KE
9445
.A73
C33p
1986

Summary:

This document outlines a series of proposed ammendments to the YOA. The identified positions represent the intentions of the Ministry of the Solicitor General to amendmend the YOA, subject to results of the Federal/Provincial Conference of Ministers Responsible for Juvenile Justice in February 1986, other consultations and final legal and related research.

The proposed ammendments involve Sections 7, 33, 38, 40 and 46 of the YOA.

This document is divided into three parts:

(1) part one, deals with priority items; detention prior to disposition, Sections 33, 38 and records maintenance and destruction;

(2) part two, deals with minimum age of criminal responsibility, contributing to delinquency and custody (open/secure); and

(3) part three, deals with definition of a parent, provincial director, youth court jurisdiction, judicial interim release and other topics.

Mostow, Morri; St-Pierre, Claude; Tremblay, Jacques (ED.). To Be Young and Deprived of Liberty. Montreal: Les Editions Convergence. 1983.

Article Type: Commentary

Issues: Young Offenders Act - Secure Custody
Facilities
Custody

Call Number: HV
9058
.Y6
1983

Summary:

This report examines older young offenders of 16 and 17 who, are now treated as young offenders were placed in a secure setting due to the nature of their crimes.

There are three articles concerning: the public and criminality, the judiciary and the psychologist and the young offender.

Article one, public and criminality used an 1983 study on criminality. The study showed that the public is ready to show tolerance towards adolescents to spare them a prison sentence. However, youths in a secure setting are seen as violent and thus an exception to the public eye.

Article two, the juciciary focusses on the limits that a judge has to incarcerate a young person. According to this article, the criteria for incarceration are the youth's dangerousness to society and their likelihood of fleeing justice.

Arictle three, by Dr. Pier Angelo Anchille, a professional psychologist focusses on the main issue concerning the psychologist, would the youth benefit from this program? In what situation?

The remainder of this text is devoted to a description of various custodial institutions for young persons in Canada, the U.S. and the U.K.

Moyer, Sharon; Carrington, Peter J. The Attitudes of Canadian Juvenile Justice Professionals towards the Young Offenders Act. Ottawa: Ministry of the Solicitor General, Programs Branch, Research Division, User Report 1985-22, 1985.

Article Type: Research

Issues: Young Offenders Act - Youth Court
Family Court
Juvenile Court
Assessment
Research
Evaluation

Call Number: N/A

Summary:

This report describes the reactions of five professional groups in the juvenile justice system to the forthcoming Young Offenders Act. The persons involved were judges, crown prosecutors, defence counsel, probation officers (P.O.) and police officers in six provinces, Nova Scotia, Quebec, Ontario, Manitoba, Alberta and British Columbia.

Results showed that attitudes were influenced by their role in the system and by province. The former being more influential.

Defence counsel and probation officers were more favourable towards the Act while police and crown prosecutors were less favourable.

The response rate was high:

Judges: - 62%
Crowns: - 54%
Defence: - 48%
P. O.'s: - 84%
Police: - 73%

National Association Active in Crimimal Justice. "Proceedings of the NAACJ Seminar on the Young Offenders Act." Ottawa, 1984. CLIC'S Legal Materials Letter. Volume 8, Number 4. p. 19, May/June, 1985.

Article Type: Commentary

Issues: Young Offenders Act - Seminar
Workshops & seminars
Program implementation
Legal policy issues
Program initiatives
Program evaluation
Policy
Policy analysis

Call Number: Periodical

Summary:

Proceedings of the NAACJ seminar on the Young Offenders Act held in Ottawa on November 27 & 28, 1984. The seminar was designed to provide a comprehensive overview of the YOA, ranging from the legal/policy dimension to detailed presentations of local initiatives and programs evaluation implications.

Available from:

National Association Active in Criminal Justice
55 Parkdale Avenue
Ottawa, Ontario
K1Y 1E5

No Author. Proposals for Ammendments to the Young Offenders Act: Summary of Submissions. October 17, 1985

Article Type: Legal Studies

Issues: Young Offenders Act - Ammendments

Call Number: KE
9445
.A66
P7
1985

Summary:

This document outlines various submissions proposing amendments to the Young Offenders Act. These submissions were received prior to June 20, 1985 and reproduced as a conference document for the Winnipeg Conference of Deputy Ministers Responsible for Juvenile Justice. This documation is a summary of the conference document. The submissions are in chronological order by sections of the YOA.

O'Brien, Daniel. "Juvenile Diversion: An Issues Perspective from the Atlantic Provinces." Canadian Journal of Criminology. Volume 26, Number 2. pp. 217-230. April, 1984.

Article Type: Commentary

Issues: Young Offenders Act - Diversion
Offenders rights
Case law
Diversion criteria
Charter of Rights
Constitutional rights

Call Number: Periodical

Summary:

Examined in this report is the diversion issue. One of the main criticisms of diversion is that it is insensitive to the protection of the juvenile offender's rights. It has been argued that due process rights are violated by the coercive nature of the youth's participation in diversion.

Another issue in the use of diversion programs is that they may, de facto, widen the net, increasing the number of youth who come under state control. That is, police or social service agencies are likely to refer youth to diversion who previously would be released with a warning.

However, an evaluation refuting this theory was done in the Province of Nova Scotia: Evaluation of Youth Alternative Project Halifax: Policy Planning and Research Branch, Nova Scotia Department of Social Services, 1982 showed that this diversion project did not "widen the net", but decreased the number of youth contact with the authorities.

The YOA addresses the "expansion" issue by stating that only if there is "sufficient evidence to proceed with the prosecution of the offence" will it go forward. This prevents the classic "widening of the net": that is using the alternative program as a means to "catch" those cases too weak to proceed through court.

A case examined: Regina v. Jones, (1979, 4 C.R. (3d)) B.C.S.C. examined the issue that diversion contract or agreements were coercive and in violation of offender rights.

Ontario, Ministry of the Attorney General. The Young Offenders Act: Materials for Crown Attorneys. Toronto: Young Offenders Act Advisory Committee, 1984.

Article Type: Legal Research

Issues: Young Offenders Act - Commentary
Constitutional Rights
Ontario
Analysis
Youth Court
Family Court
Juvenile Court

Call Number: KE
9445
A84
1984

Summary:

A series of discussion papers examining special orders, offences created by the Young Offenders Act; Comments on the French Translation of the Young Offenders Act; Mandatory Orders; Discretionary Orders; Judicial Interim Release - Highlights; Notice to Parent Requirement; Forfeiture of Recognizance; Transfer of Jurisdiction; Reports and Notices to the Crown Attorney; and Reviews.

Ontario, Ministry of Community and Social Services. The Young Offenders Act: Training Resource Manual, (2nd Draft). Toronto, Ministry of Community and Social Services, November, 1983.

Article Type: Commentary

Issues: Young Offenders Act - Ontario
Commentary
Social Service Agencies
Analysis
Predisposition Reports
Youth Court
Family Court
Juvenile Court

Call Number: KEO
1195
.A72
M5
1983

Summary:

This training resource manual is designed to guide staff of the Ministry of Community and Social Services and those agencies associated with the Ministry involved in implementating the YOA. It is a compendium of YOA related information in Ontario. The focus of Phase I is on the implementation of the YOA. This initial phase , target date, April 1, 1984 applies for 12 and 15 year-old youths. Phase II, target date, April 1, 1985 applies for 16 to 17 year-old youths. A subject index is provided.

Philip, Tom; Cohen, Lori; Johnson, Craig. "A brutal murder nets three years." Alberta Report, Volume 13, Number 42, p. 43, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Accountability
Critiques
Court Disposition

Call Number: Periodical

Summary:

Critics charge that youth act is easy on killers. Situation story of a 2 1/2 year old infant killed by a 15 year old who received three years.

The issue raised is the principle and purpose of the YOA, is it in actuality making the young person more accountable for his actions than the JDA or not? Also raised is the issue concerning dealing with the under 12 offender.

Police, such as Inspector Graham Stewart of the Winnipeg Police Department argue that three years is not suitable for a serious offence. Advocates argue that for a young person three years is an eternity.

Phillips, M.S.; Thompson, L.C. "Psychiatric Assessments under the Young Offenders Act" Dimensions in Health Service. Volume 63, Number 5. pp. 20-22, 47, June 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Ontario
Section 13
Criminal Code
Assessment
Rehabilitation
Mental Health
Age Discrimination
Mental Health Services
Detention Facilities
Forensic Psychiatry
S. 20
Records
Record Destruction

Call Number: Periodical

Summary:

This paper examines the trend to refer young adults to adult psychiatric institutions rather than to treatment centres for young offenders cited in the Act for assessment of fitness to stand trial. The paper reviews and presents a descriptive anlaysis of all young offenders assessed at an adult psychiatric service between 1977 and April 1985.

Platt, Priscilla. "Child's Play" The Criminal Lawyers' Association Newsletter.

Article Type: Commentary

Issues: Young Offenders Act - Open Trials
Analysis
Media Coverage
Due Process
Disposition Options
Statute

Call Number: Periodical

Summary:

September, 1982, Volume 5, Number 1.

Juvenile Show-Cause Hearings - Does the Bail Reform Act Apply - According to the author, the JDA was ambigious as to application of the Bail Reform Act in juvenile cases. Under the Young Offenders Act Sections 7(4) and 8(1) clean up any ambiguity in that issue.

November, 1982, Volume 5, Number 2.

Juvenile court trials, freedom of the press in juvenile court - S. 11 of the Charter of Rights and Freedoms, allows for a public hearing. At issue is the accused's rights or the right of the press and public. Under the YOA, S. 17, 38, and 39 continue to restrict publication by the press of the identity of the young person, and provide for exclusion of the public with judicial discretion based on the potential prejudice to any parts of the proceedings.

February, 1983, Volume 5, Number 3.

Appeal procedures in juvenile matters - A comparison between the JDA and the YOA. S. 27, YOA abolished the distinction between children and adults vis a vis appeals. Appeal proceedings same in all ways vs. appeals under the Criminal Code.

Under the YOA 16-17-year olds are now young persons. It is expected that there will be more transfers to adult court for violent crimes in this group.

May, 1983, Volume 5, Number 4.

Juvenile Confessions - Towards a true test of voluntariness - Background information on the JDA. S. 56 of the YOA praised for forcing police to recognize that children when questioned under arrest ought to be treated differently than adults.

Provisions allow for young persons to consult with counsel or a parent, adult relative, or adult chosen by the young person.

July, 1983, Volume 5, Number 5.

Freedom of the Press - From a freedom of expression to a freedom of access - Discussed R. v. Southam Inc. and relationship of press in the JDA. YOA provides power to exclude under judicial discretion. Important issue according to the author for the first time the rights of a specific group of individuals were determined without representation from a group being heard.

September, 1983, Volume 5, Number 6.

Sentencing - The Young Offenders Act - Under S. 16 of the YOA, transfer to adult court. Criteria for determining whether a transfer to adult court was determined in R. v. Curtis Ross Williams, 9, W.C.B. 113. The Ontario Court of Appeal ruled that the following were the criteria for transfer:

(1) type of crime;
( ) degree of premeditation; and
(3) background of the juvenile.

Also discussed were criminal records and double jeopardy.

S. 33 of the YOA provides for a review of disposition where there has been a failure to comply.

November, 1983, Volume 5, Number 7.

The Young Offenders Act - Problems surrounding its implementation - One problem of implementation is costs. The Federal/Provincial governments are bargaining over costs. Debate is still on in the provinces concerning which ministry is responsible for young offenders. Also the necessity for more judges and facilities required to detain young persons separate from adults. Also implementating a young person's right to counsel. At issue, what constitutes legal assistance.

Prevost, F. J. Young Offenders Act: Caseload and Cost Projections, November 1982. Victoria: Province of B.C. Ministry of the Attorney General, 1982.

Article Type: Research

Issues: Young Offenders Act - British Columbia
Analysis
Population forecasting
Prediction
Long range forecasting
Records

Call Number: KEB
592
P7
1982

Summary:

Report examines the impact of the uniform age limit for young persons on the province of British Columbia. This report examines on the operational implications of the Act, the impact of the revision of the provincial legislation (Young Offenders B.C. Act) as were the information system and staff training requirements to administerate the two Acts.

Public Legal Education Association of Saskatchewan. Legal Education for Regina Youth. Regina: Johnson Foundation of Regina, 1986.

Article Type: Research

Issues: Young Offenders Act - Legal education
Youth
Native
Needs assessment
Program initiative
Policy direction
Program delivery
Charter of Rights
Program implementation
Youth workers

Call Number: N/A

Summary:

The project described in this report assessed the legal education needs and interests of Regina youth, especially Native youths and considered ways by which to meet these needs.

Research related activities comprised the major work undertaken in the project. A review of related literature was completed at the start of the project. Surveys were conducted of: Regina youths, to assess their knowledge of laws that impact on young persons. Native parents, to collect information on their views about legal education for their children; and Youth workers, to record their views on legal education matters, based on their experiences working with youth.

Pullan, H. "The Young Offenders Act: Dispositional Alternatives". Crown Counsel's Review. Volume 4, Number 5. pp. 6-9. Winnipeg: Manitoba Association of Crown Attorneys. December, 1984.

Article Type: Commentary

Issues: Young Offenders Act - Dispositional
Proceedings
Victim Impact
Parents
School
Absolute discharge
Case law
Predispositional reports
Defence counsel
Disposition

Call Number: Periodical

Summary:

The YOA emphasizes victim input in the proceedings, more so than the JDA.

Pre-disposition reports must consider parent-child relationships, school and employment records.

The requirement that parents receive a copy of this report is problematic; especially if this report is critical of the parent's actions which are responsible for the young person's difficulties.

It has been proposed that a Section 13 report can be ordered during a bail application. R. v. D. S. May 2. 1984. (Ont. Prov. Ct.) 1984, Ont. D. Crim Conv. 5690-01.

The Section 13 report may be withheld from the young person's parents or private prosecutor if the person who prepares the report states that disclosure of this report would be detrimental to the mental condition of the third party. (s. 13 (6))

There is no provision to withhold this report from defense counsel who may be in a position of becoming privy to this report, yet unable to disclose this report to their client.

On the issue of absolute discharge, the same applies to young offenders as adult offenders under Section 662(1) of the Criminal Code.

Reid, Susan A. Ideology and the Young Offenders Act: Official Perceptions of Youthful Crime and Public Policy in the 1980's. Toronto: University of Toronto Centre of Criminology. Master's Thesis, 1985.

Article Type: Research

Issues: Young Offenders Act - Commentary
YOA/JDA
Analysis
Trends
Policy
Policy anlaysis
Justice models

Call Number: KE
9445
R4
1985

Summary:

This study was to elicit responses from juvenile justice practitioners in Southwestern Ontario to determine which justice models, that is ideological perspectives were being used by them. The survey results indicate that there is a blending of ideological perspectives among juvenile justice practitioners that differs from the more deterministic ideological orientation shown in a similar study conducted in the United States. Also discussed are the potential problems for implementation of the new Young Offenders Act due to this shift in ideological orientation among Canadian juvenile justice practitioners. Also provided is a brief history of juvenile justice in Canada to the development of the Young Offenders Act. An analysis of the philosophy and principles of the YOA outlines some of the contradictions within the new legislation. Finally, the implications of different ideologies among juvenile justice practitioners both cross-nationally and within the Canadian sample are discussed.

Reid, Susan A. "The Juvenile Justice 'Revolution' in Canada: The Creation and Development of New Legislation for Young Offenders." Canadian Criminology Forum. Volume 8, Number 1. pp. 1-14, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Evaluation
Juvenile Codes
Court
Disposition
Detention

Call Number: Periodical

Summary:

The Young Offenders Act is seen as a new revolution in the juvenile justice process. Two years after proclamation, criticism is raised regarding implementation of the new legislation.

The argument of this paper is that despite well formulated guiding principles designed to correct the inconsistencies of the JDA, the bureaucratic interests and ideological orientations of those responsible for implementating the YOA have thwarted the success of the progress of the juvenile justice system in Canada.

Discussed is the first year of the implementation of the YOA. Noted by the author was the Leschied and Jaffe (1985) study showing that the average length of stay in secure detention increased 21 per cent, from 12.2 days to 14.8 days, under the YOA and the Leschied and Jaffe article (1986) showing an increase in custody from 5 per cent under the JDA to 11 per cent under the YOA.

Reid, Susan A.; Reitsma-Street, Marge. "Assumptions and Implications of New Canadian Legislation for Young Offenders". Canadian Criminology Forum. Volume 7, Number 1. pp. 1-19, 1984.

Article Type: Commentary

Issues: Young Offenders Act - Justice models

Call Number: Periodical

Summary:

This report describes four models of juvenile justice and their application to the Young Offenders Act; these models are Crime Control, Justice, Welfare, and Community Change.

The author distinguishes the thirteen phrases in the YOA outlining the declaration of principles to categorize each phrase according to the model to which it pertains.

Robinson, Lyman, R. "Open Custody: Some Questions About Definition, Designation and Escape therefrom. In N. Bala and H. Lilles (ed) Young Offenders Service, Vol. 2. Scarborough: Butterworths, pp. 7511-7517, 1984-updated.

Article Type: Commentary

Issues: Young Offenders Act - Secure Custody
Facilities
S. 24
Case law
Manitoba
Adjudication
Custody
Secure Juvenile detention

Call Number: KE
9445
.A6
Y6
1984-
Vol. II

Summary:

According to S. 24 of the YOA, the Lieutenant Governor in Council or their delegate has the power to designate one of the types of places referred to in paragraph 24(1) (a) which describes in generic terms the facilities in common usage for young persons before the YOA came into force.

For open custody, a delegate, appointed by the Lieutenant Governor in Council may designate a facility as an open custody facility. Secure custody facilities can only be designated by the Lieutenant Governor in Council.

At issue is the limitations on the types of facilities which the Lieutenant Governor in Council (or their delegate for open custody) may designate.

In C.F. v. R. [1984] 6 W.W.R. 37, YOS, 84-063, (Man. C. A.) the Manitoba Court of Appeal expressed the opinion that the Lieutenant Governor in Council is limited to designating as places of open custody, those places and facilities specified in paras 24 (1) (a) and (b) of the YOA.

The Manitoba Court of Appeal accepted the "de jure" designation of the Lieutenant Governor in Council or their delegate without examining the "de facto" openness or security of the custody arrangements, as long as the designation falls within one of the generic descriptions which are found in para. 24 (1) (a). When considering whether a designation by the Lieutenant Governor in Council or their delegate is legitimate, the question is no longer whether the facility is open or secure, but rather whether the facility is a "community residential centre, group home, child care institution, or forest or wilderness camp." No definition is included in the YOA, so the courts will be required to judicially interpret each of these terms.

See R. v. Gordon J. Feb. 8, 1985 (Ont. Prov. Ct.) Y.O.S. 85.018.

Ross, Walter. "Kids Not Cons" A Problem in Search of a Policy: Children under Twelve in conflict with the Law. Toronto: Metro Children's Advisory Group. 1985.

Article Type: Commentary

Issues: Young Offenders Act - Child welfare
Child Protection laws
Age limitation
Criminal liability
Critiques
Provincial statutes
Criteria
Policy
Provincial Responsibility

Call Number: HV
9110
.T67
P7
1985

Summary:

Notes from a one day conference held in Toronto to explore appropriate provincial and community strategies to deal with young persons under twelve in trouble with the law. Among some of the recommondations is that legislation at the provincial level must be clear and articulated form of action avoiding a duplication of federal legislation. Also highlighted was early intervention and community support programs available for youths under 12.

The conference was developed to: facilitate communication and co-operation between officials, agencies and sectors concerned with children under the age of 12; to document concerns encountered by individuals and organizations which deal with these children; to review and assess a number of options and strategies for dealing with the problem; and to develop recommendations for immediate and long-term action.

Presently, according to Warren Allmand, Keynote speaker, the federal government contributes $157 million to programs emanuating from the YOA.

According to Inspector Jim Clark, Metro Toronto Police Youth Bureau, from January 1st, 1985 to November 1st, 1985 over 1 600 police contacts wer made with children under twelve. The breakdown of offences were the following:

782	Thefts
84	Break and Enters
83	Assaults and Sexual Assaults
190	Mischief
49	Arsons
24	Woundings
132	Provincial Offences
1 344	Total

No explaination was given as to the classification of the remaining 256 cases.

Barboura Ferns, examining the implications of the YOA for children under twelve, raised the following issues: criminal acts committed by children under twelve with older persons who are subject to prosecution; the need for coorboration of evidence given by young persons under twelve; and, the credibility of the under twelve youth as a witness, given that they can no longer be charged with perjury.

Outlined are a few pilot projects identified as focussing on under twelve children.

Other programs were described which involved youths under 12 pre-YOA and post-YOA. Names and addresses of contact persons for these programs are available in the back of the booklet.

Solicitor General of Canada. "Law Reform for Today's Youth." Liaison. Volume 12, Number 3. pp. 8-14, March 1986.

Article Type: Commentary

Issues: Young Offenders Act - Evaluation
Commentary
Constitutional Rights
Accountability
Alternative Sentencing
Alternatives Policy
Alternatives

Call Number: Periodical

Summary:

This article outlines assessments and comments on the YOA by by juvenile justice practitioners in light of the Law Reform Commission's comments on the need to recodify our laws.

According to Earl Levy, a Toronto criminal lawyer and president of the Criminal Lawyers' Association, the YOA is an enlightened and progressive piece of legislation, but with flaws. According to Mr. Levy, custodial sentences have increased by 200 per cent in Ontario. Also, 16-17 year olds are receiving stiffer sentences as young offenders, than when treated as adults.

Among the issues raised are the availability of alternatives, especially in Ontario; the impact that availability of alternatives may have on the police decision to charge; the three year maximum sentence; the availability of counsel; the youth's knowledge of legal aid and right to counsel; and, the availability of counsel.

The amendments to the YOA are outlined.

Solicitor General of Canada. The Young Offenders Act - Highlights. Ottawa: Ministry Secretariat. 1986

Article Type: Commentary

Issues: Young Offenders Act - Legislation
Policy
Policy changes
Principles
Philosophy
Implementation

Call Number: KE
9445
.Z82
Y6
1986

Summary:

Outlined are highlights of the YOA, which include recent amendments to the legislation. The article examines issues of concern which focuses on the impact of the YOA on the juvenile justice system.

Solicitor General of Canada. Guide to the Record-Keeping Provisions of the Young Offenders Act. Ottawa: Ministry of the Solicitor General, Draft Document.

Article Type: Commentary

Issues: Young Offenders Act - Records

Call Number: KE
9445
.Z82
G8

Summary:

This guide is designed to assist record holders in the development of their own policy on record management under the record keeping provisions of the Young Offenders Act.

Spears, C.; Phillips, M.S. The Lieutenant Governor's Warrant and the Young Offender. Toronto: Metro Toronto Forensic Service Working Paper #67, 1984.

Article Type: Research

Issues: Young Offenders Act - Ontario
Forensic Psychology
Mental Health
Mental Health Services
Criminal Code
S. 13
YOA/JDA
S. 20
S. 24
Assessment
Pretrial Assessment
Predisposition Reports
Involuntary Treatment
Treatment

Call Number: HV
9109
O5
S6

Summary:

This study, conducted before the implementation of the YOA, considered the implications of the YOA for mentally disturbed youth charged with a criminal offence and liabile to detention under a Lieutenant Governor's Warrant (LGW). This study:

(1) examined the JDA and the changes in the law brought about by the YOA by the fall of 1983;

(2) reviewed the provisions of the YOA to determine whether or not they are in accordance with its rationale, to replace the parens patrie approach to juvenile misbehaviour; and

(3) examined the current and prospective practice of the courts and social welfare agencies in respect of troublesome and/or criminal youths who have psychiatric problems.

Spears, C.; Phillips, M.S. Young Persons (Aged 14-18 years old inclusive) Detained Under the Lieutenant Governor Warrant in Ontario. Toronto: Metro Toronto Forensic Service Working Paper #68, N.D.

Article Type: Research

Issues: Young Offenders Act - Ontario
Forensic Psychology
Mental Health
S. 13
YOA/JDA
S. 20
S. 24
Involuntary
Treatment

Call Number: HV
9109
O5
P5

Summary:

This study was estabilished to identify jkthe main demographic characteristics of all persons in Ontario held under a Lieutenant Governor Warrant (LGW). The full report is available in Working Paper #65 published by the same organization. The data were collected from medical files during the summer of 1982. This report examines the 24 young persons who were detained under the LGW as of the time of this study.

Of the group twenty-two were found not guilty by reason of insanity (NGRI) and two were placed on the LGW after a finding that they were unfit to stand trial. For all subjects their present detention under a LGW was their first.

This study consisted of a review of 24 persons who were placed on LG warrants, 18 years of age and younger. They consist of approximately 7 per cent of the total LGW population, so analysis in this report is limited to descriptive analysis and the reason for detention. The authors argue that for identification and description of the population of juvenile LGW's, from all provinces may produce more accurate results.

Of the Ontario population of juvenile LGW's all were predominately males found not guilty by reason of insanity. Approximately 46 per cent are held in Pentang. The remaining persons are assigned to regional hospitals and some are being maintained in the community. The group has a higher level of education attained than their adult counterparts. They also show a history of juvenile problems and previous psychiatric contacts for a majority of the group. Their common diagnosis was personality disorder. Of importance is the fact that a young LGW patient status is reviewed by the Advisory review Board more often than their adult counterparts.

Finally eighty tables covering various aspects of the young persons held under a LGW.

Stuart, Barry D. (Judge). "The Young Offenders Act: The Wonderful World of Section 56." Provincial Judges Journal. Vol. 9, No. 1&2, July, 1985

Article Type: Legal Studies

Issues: Young Offenders Act - S. 56

Call Number: Periodical

Summary:

A step-by-step analysis of S. 56 of the YOA, examining admissibility of statements. The author makes five major problem sources of S. 56: it conflicts with existing law resulting in more litigation; to much discretion is allowed in the section, ie. definition of "reasonable; potential conflicts with other sections of the YOA, ie. S. 3; potential conflict with the new Evidence Act in regards to admissibility of confessions; finally, how S. 56 will be interpreted under the Charter.

Thomson, G. M. (Judge). "Commentary on the Young Offenders Act". in Nicholas Bala and Heino Lilles. Young Offenders Service, Vol. 2. Scarborough: Butterworths, pp. 7501-7506, 1984, updated.

Article Type: Commentary

Issues: Young Offenders Act - Principles
Philosophy
Judicial Discretion
Delays
Disposition
Due process

Call Number: KE
9445
.A6
Y6
1984-
Vol. II

Summary:

Outlined are six major concerns about the Young Offenders Act.

1. The Act tends to include provisions which betray some inconsistency or ambivalence about both the approaches which should be taken with young offenders and the objectives it is hoped will be achieved.

   The Declaration of Principles is worded so broadly as to endorse both the old philosophy and the new philosophy.

   The YOA lacks clarity about its philosophical underpinnings.

2. Uncertainty and ambivalence seems most apparent in provisions which outline the enormous amount of discretion left to the individual provinces; that is provinces are free to offer alternative measures or not although these are a major part of the Act. Also at issue is the availability of legal aid lawyers to handle these cases.

3. The Act's laudable emphasis on reports, legal representation, reviews, etc. could produce extensive delay if the necessary funds are not available.

4. Another issue was whether the Act would appropriately recognize the role of the court at the dispositional stage of proceedings. The power of the youth courts over dispositions seems to have been considerably strengthened. The Courts have the authority to choose experts for medical/psychological testing.

5. The Act follows the principle that legislative criteria should be precise, clear and measurable. However, some of the requirements seem excessive with reference to maintenance, use, and destruction of records, and with pre-disposition reports. There is a need for tight criteria for admitting offenders 14 years and over to secure custody.

6. Section 13 dealing with medical and psychological reports contains the most substantial departure from basic due process protections contained in the Act -- the power to deny the young offender the right to see part or all of the report. Judges are allowed to choose the "qualified person", limiting assessment of the young offender to a psychiatrist or psychologist. Also at issue is the availability of resources.

Judge G.M. Thomson is a Provincial Court Judge, Provincial Court Family Division, Province of Ontario. This article was first published in Provincial Judges Journal, June, 1983.

Underwood, Nora. "A tougher law for young offenders". Macleans. p. 49, February 3, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Commentary
Child Protection Laws
Ontario
Criminal Liability
Provincial Responsibilities
Transfer

Call Number: Periodical

Summary:

A commentary on the need to ammend the YOA in light of a recent court decision in Ontario where a young person was sentenced to three years for three murders. Reference is made to the inability to charge under-12 youths. Metro Toronto Police statistics show that for 1985 youths under 12 committed 1 855 crimes, including 41 arson cases, 92 sexual assaults and almost 100 cases of B&E.

Verdun-Jones, Simon N.; Hatch, Alison J. The Young Offenders Act and its Relationship to Existing Provincial and Federal Legislation. Burnaby: Simon Fraser University Criminology Department, 1986.

Article Type: Commentary (draft document)

Issues: Young Offenders Act - Federal statutes
Provincial statutes
Child welfare

Call Number: N/A

Summary:

Outlines the Youth Court structure by province, examining the development of a Unified Family Court and present structures such as circuit courts. Provinces must now enact new legislation or amend existing legislation granting the Youth Court jurisdiction over the commission of provincial and municipal offences by young persons.

The relationship of YOA to Provincial Statutes is discussed.

An outline is provided of how legislation in each province is affected by, and interacts with the YOA. These sections are not comprehensive, for according to the authors, factors such as provincial policy, judicial philosophy, and geographical and financial constraints will, to some extent, influence the application of the discussed provisions.

Also discussed is provincial Child Welfare legislation, examining such issues as crown wardship, children in need of protection, and offences committed by children under 12. Also examined are provincial legislation concerning school attendance and the relationship of the YOA and psychologists, paticularily the application of the YOA to Criminal Code provisions regarding fitness to stand trial and the insanity defence.

Walker, John, A. The Development of Young Offenders Act Related Programming in Canada. Ottawa: John Howard Society of Canada. Draft Document, for Discussion only. September 15, 1984.

Article Type: Commentary

Issues: Young Offenders Act - Canada
Social service agencies
Rehabiliatation
Predisposition
reports
Children's rights
Diversion
Program direction
Program delivery
Community organizations

Call Number: HV
9108
W3
1984

Summary:

This article describes the role of the J.H.S. in implementating the YOA. By 1982, the Society offered 50 programs for young persons.

Included is a program inventory illustrating JHS, YOA related activities by province. Also outlined are Federal Government iniatives, projects and funding programs.

In addition, the programs of other National agencies, such as, the St. Leonard's Society of Canada, Canadian Association of Children with Learning Disabilities and the Canadian Psychological Association are outlined

The final section of this report outlines services for young offenders by province and territory.

Weiler, Richard; Searson, Phyllis; et al. "Study on Community Response to the YOA." In Nicholas Bala and Heino Lilles. Young Offender Service, Vol. 2. Scarborough: Butterworths. pp. 7507-7510, 1984-updated.

Article Type: Research

Issues: Young Offenders Act - Implementation
Voluntary agencies
Provincial responsibilities
Provincial statutes

Call Number: KE
9445
.A6
Y6
1984-
Vol. II

Summary:

The Candian Council on Children and Youth and the Canadian Council on Social Development undertook a study of the responsibilities of voluntary organizations in the development and implementation of the Young Offenders Act. Their concern was on formulation of the law in a contentious environment involving federal and provincial authorities with little active participation by organizations representing voluntary community organizations.

A study was conducted by the Council to:

- Identify past, present and future activities related to the Act, and plans underway in the voluntary sector, including research, educational and service planning, and coordination of interests;
- Identify where collaborative action among voluntary organizations might be helpful in realizing the principle of the new Act; and,
- Stimulate, through study, greater awareness, concern, and possible action among voluntary organizations.

Results

The results showed that the majority of the organizations contacted had little or no reaction to the YOA.

The organizations involved with the Young Offenders Act included professional agencies or agencies traditionally connected wtih criminal justice interests. Activities were primarily educational in nature. There was general agreement on the need for increased communications in the voluntary sector and on the importance of monitoring the YOA.

Additional data is available from the Canadian Council on Social Development located at:

55 Parkdale Avenue
Ottawa, Ontario
K1Y 4G1

Weiler, Richard; Ward, Brian. "A National Overview of the Implementation of Y.O.A.: One Year Later." Nicholas Bala and Heino Lilles. Young Offenders Service, Vol. 2. pp. 7517-7524. Scarborough: Butterworths, 1984, Updated.

Article Type: Research

Issues: Young Offenders Act - Implementation
Child welfare
Legal services
Alternative measures
Detention
Assessment
Judicial decision
Records
Age limitation
Justice models
Community organizations
Alternatives
Custody

Call Number: KE
9445
.A6
Y6
1984
V. II

Summary:

By late 1983, the Canadian Council on Social Development (CCSD) and the Canadian Council on Children and Youth (CCCY) had conducted a pre-implementation survey of approximately 300 national,provincial and local voluntary organizations concerned with young persons.

In early March 1985, 100 community organizations and 100 individuals working with the YOA were surveyed, with fifty per cent responding.

The results from the questionnaire outlined a synthesis of the procedures occuring to implement the YOA rather than providing detailed data concerning implementation. There is little evidence of a general and consistent understanding of the YOA.

Overview of Responses

It appears that although organizations are complying with the detailed provisions of the YOA, the principles and intention of the YOA, to provide an appropriate and authentic youth justice system, have been lost.

Variations in compliance are identified.

Specific Aspects of the YOA

Specific aspects of the YOA that are examined include legal services, alternative measures, pre-trial detention, causes or reasons for pre-trial detention, assessment of the young offender while in custody, court dispositions, keeping and destruction of records for young offenders and problems for further treatment. Also examined is the uniform age limit and the problem of young people who commit offences while under the age of twelve.

Wilson, Larry C. Juvenile Courts in Canada. Toronto: Carswell Company of Canada. 1982.

Article Type: Legal Studies

Issues: Young Offenders Act - Commentary
Issues
Case law
Jurisprudence
Judicial Reviews
Youth Court
Family Court
Criticism
Alternatives

Call Number: KE
9445
W5
1982

Summary:

The book provides a step-by-step analysis of the juvenile justice process under the YOA. Included are topics such as police powers, counsel, trial and detention.

Young Offenders Directorate. Record-keeping under the Young Offenders Act: A Guide. Ottawa: Ministry of the Solicitor General, October, 1986.

Article Type: Research

Issues: Young Offenders Act - Records

Call Number: KE
9445
.Z82
M5
1986

Summary:

The pupose of this guide is to provide an orientation to the amended record-keeping provisions of the Young Offenders Act, specifically for youth justice professionals. Included in this guide is a brief overview of some of the problems encountered with the original record provisions, a review of broad policy considerations governing the new ammendments, and a commentary on the intent of each section, with guidelines for each of the major user groups in the youth justice system. Ie., police, judges,

THE YOUNG OFFENDERS ACT:

NATIVE PERSPECTIVE

SUPPLEMENTAL TO YOUNG OFFENDERS ACT:

A BIBLIOGRAPHY

The following articles examine the application of the Young Offenders Act to young Native offenders.

Barrett, M. E. The Young Offenders Act: A Commentary on Some Problems of Service Delivery in Northern Ontario. Thunder Bay: Ontario Native Women's Association Justice Development. June, 1985.

Article Type: Commentary

Issues: Young Offenders Act - Native Children
Open custody
Community based alternatives
Predispositional reports
Judicial interim release

Call Number: N/A

Summary:

This commentary reviews several aspects of the juvenile justice process affecting Native Young Offenders under the Young Offenders Act. Issues examined are: Alternative Measures, Pre-disposition Reports, Judicial Interim Release and dispositions, including Open Custody, Community-based Alternative Dispositions, Fine Option Programs, Education, and availability of facilities and financial issues.

Brant, Daniel; Nahweghbow, David. C-61, The Young Offenders Act: Native Issues, An Overview - Part 1. Indian Commuity Group, 1986.

Article Type: Commentary

Issues: Young Offenders Act - Native Children
Fine payment
Responsible adult
Band Council
Custody
Legal Aid

Call Number: N/A

Summary:

This paper discusses various Native issues which have arisen since the implementation of the Young Offenders Act. Issues discussed include:

Fines. Although the fine is often used as an alternative to incarceration, payment is often difficult to impossible for a Native, leaving incarceration for default of payments as a likely outcome.

Responsibility. The youth court can release the offender to a "responsible adult"; however Native Indian parents may not be seen as responsible by the courts.

Cultural differences. Administration of the YOA must take into consideration specific Native group differences.

Administration. Since the administration of the legislation is by the provinces, Band by-laws will be treated as provincial legislation, and the ability of a Band Council to undertake any imaginative or unique direction with respect to preventative or other programs may be curtailed under the YOA.

Legal Aid. Section 14: With the advent of the YOA, legal aid services may be used more frequently than before, and special

provisions may be needed to provide for a more culturally sensitive legal aid program.

Presently there is no clear and consistent national policy with respect to the collection of statistics on Native juvenile delinquency.

Caryle, Richard: Qualitative Study on Native Juvenile Justice Issues. Not Completed. Native Canadian Centre of Toronto, 16 Spadina Road, Toronto, Ontario, M5R 2S7.

Article Type: Research

Issues: Young Offenders Act - Native Children
Risk factor
Empirical research

Call Number: N/A

Summary:

This study, planned to be completed by the summer of 1986, examines the impact of the Young Offenders Act on youths involved in service programs and youths deemed as "high risk", for delinquency. The author notes that there is no clear methodology to gather statistics on the number of urban Native children for this particular project.

Hamblin, Chris. Northern Youth in Crisis: A Challenge for Justice. Burnaby B. C.: The Northern Conference. 1985.

Article Type: Commentary

Issues: Young Offenders Act - Native Children
Diversion
Alternative sentencing
Native courtworker

Call Number: N/A

Summary:

This conference was held in Val d'Or, Quebec , November 3-8, 1985. Included was a discussion of programs aimed at meeting the needs of northern youth. Community initiatives in the area of diversion, sentencing and treatment facilities were examined. Justice issues included the implications of the Young Offenders Act for youth, communities and justice professionals; the role of the courtworker, and traditional/customary law responses to the needs of northern youth were explored. These issues were addressed through short courses, workshops, demonstration projects, and skill development sessions.

LaPrarie, Carol; Craig, Barbara. Native Criminal Justice Research and Programs: An Inventory. Canada: Ministry of the Solicitor General Programs Branch, Research Division User Report, 1984-8.

Article Type: Research

Issues: Young Offenders Act - Native Children
Native response
JDA/YOA
Implications

Call Number: E
98
.C87
C27
1984

Summary:

This report presents various research and programming activities related to Native people and criminal justice in Canada. This report deals with the recording practices of the various components of the criminal justice system as they relate to racial origin. Future projects are outlined dealing with the impact of the Young Offenders Act on Native Juveniles.